

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADRIANA AGOSTINI,	:	Case No. 16-cv-7119 (DC)
	:	
Plaintiff,	:	
	:	AFFIRMATION OF LAURI F.
- v -	:	RASNICK, ESQ. IN SUPPORT
	:	OF DEFENDANTS' MOTION
EMBLEMHEALTH, INC., and ALAN WEISHAAPT,	:	<u>FOR SUMMARY JUDGMENT</u>
JONATHAN FRANDSEN and DANIEL BYRNE,	:	
Individually and as Employers,	:	
	:	
Defendants.	:	
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LAURI F. RASNICK, Esq., an attorney admitted to the Bar of the State of New York,
hereby affirms under penalty of perjury as follows:

1. I am a member of the law firm of Epstein Becker & Green, P.C., attorneys for Defendants EmblemHealth ("EmblemHealth"), Alan Weishaupt, Jonathan Frandsen, and Daniel Byrne, and am fully familiar with the facts set forth herein. I respectfully submit this Affirmation in support of Defendants' Motion for Summary Judgment.

2. Plaintiff Adriana Agostini ("Agostini") filed a Complaint with the New York State Division of Human Rights ("NYSDHR") on or around December 4, 2009. Attached hereto as **Exhibit A** is a copy of the NYSDHR Complaint Form.

3. On or about December 13, 2010, the NYSDHR issued a Determination and Order After Investigation which found no probable cause and dismissed the December 4, 2009 Complaint. A copy of the NYSDHR's Determination and Order After Investigation is attached hereto as **Exhibit B**.

4. On or about June 6, 2010, Agostini filed another Complaint with the NYSDHR. A copy of this NYSDHR Complaint Form is attached hereto as **Exhibit C**.

5. On or about July 26, 2012, the NYSDHR issued a Determination and Order After Investigation found no probable cause and on this second complaint and dismissed the June 6, 2010 Complaint. A copy of the NYSDHR's Determination and Order After Investigation is attached hereto as **Exhibit D**.

6. On or about July 10, 2015, Agostini filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC"). A copy of this Charge is attached hereto as **Exhibit E**.

7. On or about June 17, 2016, the EEOC issued a Notice of Right to Sue in connection with the Charge. A copy of this Notice of Right to Sue is attached hereto as **Exhibit F**.

8. On or about September 12, 2016, Plaintiff filed a Complaint in this action alleging asserting claims pursuant to the Americans with Disabilities Act ("ADA"), the Family Medical Leave Act ("FMLA"), and the New York City Human Rights Law ("NYCHRL"). A copy of the Complaint (Docket No. 1) is attached hereto as **Exhibit G**.

9. In this action, Agostini produced a "return to work" note dated August 1, 2014, which was marked as an exhibit at her deposition. A copy of this "return to work" note is attached hereto as **Exhibit H**.

10. On or about August 1, 2014, an anonymous Hotline Complaint was filed which mentioned Agostini. This Complaint and the Investigation Report that followed were produced in discovery and marked as exhibits at the deposition of Lisa Butler. A copy of this Hotline Complaint and the Report are attached hereto as **Exhibit I**.

11. Pursuant to a FOIA Request, the Social Security Administration produced to Defendants documents concerning Agostini's application for social security benefits. Attached

hereto as **Exhibit J** is a copy of Plaintiff's November 18, 2015 application for Supplemental Social Security Income ("SSI").

12. A copy of Agostini's November 18, 2015 application for Disability Insurance Benefits is attached hereto as **Exhibit K**.

13. A copy of a "Function Report" Agostini submitted to the Social Security Administration in support of her applications for SSI and Disability Insurance Benefits is attached hereto as **Exhibit L**.

14. A copy of a Disability Report to the Social Security Administration submitted by Agostini in support of her applications for SSI and Disability Insurance Benefits is attached hereto as **Exhibit M**.

15. A copy of a February 1, 2016, Request for Hearing by Administrative Law Judge for Social Security Benefits is attached hereto as **Exhibit N**.

16. A true and correct copy of the relevant excerpts from Agostini's August 9, 2017 deposition transcript is attached hereto as **Exhibit O**.

17. A true and correct copy of the relevant excerpts from Daniel Byrne's August 11, 2017 deposition transcript is attached hereto as **Exhibit P**.

18. A true and correct copy of the relevant excerpts from Grace Adams-Cunningham's August 17, 2017 and August 29, 2017 deposition transcripts is attached hereto as **Exhibit Q**.

19. A true and correct copy of the relevant excerpts from Diane McGuire's September 11, 2017 deposition transcript is attached hereto as **Exhibit R**.

20. A true and correct copy of the relevant excerpts from Jonathan Frandsen's October 17, 2017 deposition transcript is attached hereto as **Exhibit S**.

21. A true and correct copy of the relevant excerpts from Alan Weishaupt's October 20, 2017 deposition transcript is attached hereto as **Exhibit T**.

22. A true and correct copy of the relevant excerpts from Lisa Butler's October 27, 2017 deposition transcript is attached hereto as **Exhibit U**.

Dated: New York, New York
February 9, 2018

EPSTEIN BECKER & GREEN, P.C.

By: /s/ **Lauri F. Rasnick**
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